

## OGC Has Reviewed

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Chief, Confidential Funds Branch

10 February 1949

Office of the General Counsel

Waiver of Overpayment by Veterans Administration

1. Your memorandum of 8 February 1949 forwarded the enclosed newspaper clipping and requested the legal background and basis for granting relief to recipients of overpayments of the Veterans Administration. The procedure which the writer has outlined is correct and the criteria for waiver are generally accurate.

2. The basic statutory provisions for waiver of overpayments are found in 38 USC Sections 33, 453, and 809. These apply to pensions, World War veterans' relief, and National Service Life Insurance. In each case the essential standard of relief appears to be good faith on the part of the recipient. This, of course, entails ignorance of the fact that such payment was an overpayment. The element of hardship is an additional factor indicated by the discretion given the Administrator to decline taking recovery action when it would be contrary to equity and good conscience.

3. For further reference, the application of these provisions of the statutes can be found in Decisions of Administrator of Veterans' Affairs, Volume 1, pages 655, 1072, 1097, 1127, 1333 and 1347. Unfortunately this office does not possess a copy of the Decisions.

4. We shall be happy to advise you on any specific case you may have in mind or on drafting general instructions on this point.

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General Counsel: 